

REQUEST FOR APPROVAL

To: Mark Leary
Deputy Director

From: Howard Levenson
Assistant Director

Request Date: August 12, 2010

Decision Subject: Approval of a modification of an existing Recycling Market Development Loan Zone loan to Ortigalita Power Company, LLC (OPC) to increase the loan amount by \$225,000 from the current \$1,125,000 to a new total of \$1,350,000 (Recycling Market Development Revolving Loan Subaccount, Fiscal Year, 2010/11).

Action By: August 23, 2010

Summary of Request:

This memo requests approval to modify an existing Recycling Market Development Zone (RMDZ) loan to Ortigalita Power Company, LLC, Merced, California (Merced County RMDZ). The modification augments the existing RMDZ loan amount by \$225,000, increasing the loan from \$1,125,000 to \$1,350,000. This loan project meets the required eligibility criteria established in September 2008 to receive loan funding. The loan modification was approved by the Loan Committee on July 22, 2010 and is recommended for final approval. If approved by the Deputy Director, the increase in the loan will be funded from the Recycling Market Development Revolving Loan Subaccount, Fiscal Year 2010/11.

The increase may be temporary because the loan may be paid down upon OPC's receipt of a U.S. Department of Treasury grant, to be issued soon after project completion.

The additional RMDZ loan is requested because of cost overruns totaling \$300,000 from the original projected budget due to civil engineering expenses, leasehold improvements to comply with Merced County requirements for the site and interconnecting equipment for power transmission to the grid provided by the utility company.

The original loan was approved on July 21, 2009 in Agenda Item #9.

Recommendation:

Staff recommends approval of this RMDZ loan modification, subject to the conditions and directions specified below in "Deputy Director Action." This project is expected to further increase both local and regional diversion efforts.

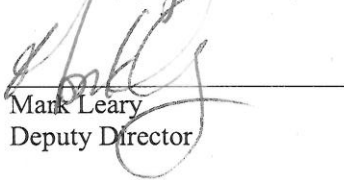
Deputy Director Action:

On the basis of the information and analysis in this Request for Approval and the findings set out herein, I hereby approve the following Recycling Market Development Zone loan modification to increase the existing loan by the amount shown next to the Borrower's name, subject to all terms and conditions contained in the loan agreement to be prepared by loan program staff in accordance with applicable regulations, and on such other terms and conditions as duly authorized staff in their sole discretion deems necessary or advisable:

Ortigalita Power Company, LLC.....\$225,000

I further direct staff to conduct all acts necessary to fund the loan modification, including but not limited to the preparation and execution of the loan agreement and other loan documents.

Dated: August 19, 2010


Mark Leary
Deputy Director

Background Information, Analysis, and Findings

(1) General Background

The purpose of the Recycling Market Development Zone Loan Program (Loan Program) is to provide low-interest loans to private businesses and not-for-profit organizations to increase diversion of non-hazardous solid waste from California landfills and to promote market demand for secondary and postconsumer materials. Funding for the Loan Program is authorized by Statute in Public Resources Code, Section 42023.1.

In accordance with established procedures, all loan applications are reviewed and evaluated to ensure that the project meets current eligibility and underwriting criteria and has obtained required permits as determined by other pertinent CalRecycle programs. The Loan Committee then considers the fiscal soundness and terms of the proposed loan and recommends that the loan request be either approved or declined. Upon conclusion of this process and Loan Committee approval recommendation, CalRecycle senior management staff reviews the loan request and determines whether to make a commitment to approve and fund a loan.

- **Project Eligibility Criteria** for the RMDZ Loan Program were approved in September 2008. Staff reviewed the original application and determined it was consistent with the established criteria. The project proposed by Ortigalita Power Company, LLC (OPC) qualifies as a *conversion technology project*. The loan modification supports this original project. The owners are in the process of setting up a biomass conversion plant in Merced, California to convert wood waste to biomass gas and generate electricity which will be sold to a utility company under a 15-year, fixed price contract. The project will produce an estimated 3,750,000 million kilowatt hours of electricity annually and divert 3,900 tons of agricultural waste such as wood chips from local agricultural waste recycling yards.
- **Interdivisional Reviews** on the loan modification were performed by the following:
 - The Budgets Office confirmed that there are sufficient monies allocated for Fiscal Year 2010/2011 to fully fund this loan modification.

Fund Source	Amount Available	Amount to Fund Item	Amount Remaining	Line Item
<i>RMDZ Loan Sub Account, FY 2010/11</i>	\$3,030,000*	\$225,000	\$2,805,000	Direct Loan

*Estimated

- Legal counsel for the RMDZ Loan Program was involved in staff discussions evaluating the merits and eligibility of the loan modification prior to the Loan Committee meeting. Legal Counsel is not aware of any significant legal issues related to this loan.
- The **Loan Committee** met and approved the loan increase to \$1,350,000 on July 22, 2010.

(2) Loan Description

Ortigalita Power Company, LLC (OPC) was originally established as a joint venture between Parreira Almond Processing Company (Parreira) and Phoenix Biomass Energy, Inc. (Phoenix Energy) to own and operate a biomass gasification plant at an almond farm in Los Banos, Merced County.

A \$1,125,000 loan was approved by CalRecycle on July 21, 2009 to enable OPC to build a 500 kilowatt biomass gasification plant in Merced County, California.

After the loan approval, the joint venture partner, Parreira Almond Processing Company withdrew from the project. Rather than abandoning the project, OPC found an alternative site within Merced County for the biomass plant. An amendment to the credit was approved on November 5, 2009 by CalRecycle to reflect the new ownership structure where Phoenix Energy became 100% owner and the site changed from Los Banos, Merced to 3227 Beachwood Drive, Merced in Merced County Regional RMDZ.

OPC is in the process of completing the gasification plant which will divert green waste such as wood waste to biogas and generate electricity that will be sold to an electric utility company under a 15-year, fixed price contract.

OPC has requested a \$225,000 loan increase to bring the total RMDZ loan amount to \$1,350,000. This increase will accommodate an increase in the total project cost from \$1,550,000 to \$1,850,000. The \$1,350,000 in RMDZ loan represents 73% of the project cost. Ortigalita owners and investors have provided the matching funds to complete the project.

The additional RMDZ loan is requested because of cost overruns totaling \$300,000 from the original projected budget due to civil engineering expenses, leasehold improvements to comply with Merced County requirements for the site and interconnecting equipment for power transmission to the grid provided by the utility company.

Upon project completion, OPC will be eligible for up to 30% reimbursement of the total eligible project cost under the Renewable Energy Grants, a Federal Grant Program that was established by the American Recovery and Reinvestment Act and is being administered by the U.S. Department of Treasury. Thus, the loan increase may be temporary because the loan may be paid down upon OPC's receipt of the U.S. Department of Treasury grant, payable 60 days after project completion.

(3) Summary

This loan modification is necessary to implement the original project. The project will assist in the implementation of CalRecycle's Strategic Directive Number 6 by providing an RMDZ loan to assist in the development of viable, sustainable markets to divert materials from landfills and Number 9.2 by encouraging the development of alternative energy and bio fuels.

This loan will also result in residual benefits to stakeholders and the State:

- The Zone Administrator for the Merced County Regional RMDZ supports this project as it has the potential to increase local landfill diversion.
- As this loan project contributes to the diversion of waste from the local waste stream, it will be assisting the local jurisdictions' compliance with the 50% disposal reduction mandate under the Integrated Waste Management Act, Assembly Bill 939.
- OPC's key to success is its signed 15-year contract with the utility company and a steady supply of feedstock from green waste such as wood chips from recycling yards.
- The project has received an Authority to Construct permit from the San Joaquin Valley Air Pollution Control District and has been certified by the California Energy Commission as being eligible technology under the Renewable Portfolio Standard (RPS).
- Under California's RPS statutes, retail sellers of electricity in California are required to increase the amount of renewable energy they procure each year by at least one percent, until 20 percent of their retail sales are served with renewable energy by December 31, 2010.